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CPA 11697

PTO/SB/29 (10-00)

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# CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

*Submit an original, and a duplicate for fee processing.  
(Only for Continuation or Divisional applications under 37 CFR 1.53(d))*

CHECK BOX, if applicable:  
 DUPLICATE

Address to:

**Assistant Commissioner for Patents  
Box CPA  
Washington, DC 20231**

Attorney Docket No. of Prior Application	1103326-0283
First Named Inventor	Iofroth
Examiner Name	E. Webman
Group Art Unit	1615
Express Mail Label No.	EK907967742US

This is a request for a  continuation or  divisional application under 37 CFR 1.53(d),  
(continued prosecution application (CPA)) of prior application number 08 / 945,655,  
filed on Oct. 24, 1997, entitled **PHARMACEUTICAL COMPOSITION FOR SUSTAINED  
RELEASE OF THE HMG-COA REDUCTASE INHIBITOR**

**NOTES: FLUVASTATIN**

**FILING QUALIFICATIONS:** The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

**C-I-P NOT PERMITTED:** A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

**EXPRESS ABANDONMENT OF PRIOR APPLICATION:** The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

**ACCESS TO PRIOR APPLICATION:** The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

**35 U.S.C. 120 STATEMENT:** In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(e).

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

1.  Enter the unentered amendment previously filed on \_\_\_\_\_ under 37 CFR 1.116 in the prior nonprovisional application.
2.  A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
  - a.  **DELETE** the following inventor(s) named in the prior nonprovisional application:  
.....
  - b.  The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.  A new power of attorney or authorization of agent (PTO/SB/81) is enclosed. 03/14/2001 GIEFFERA 00000073-88945635
5. Information Disclosure Statement (IDS) is enclosed:
  - a.  PTO-1449
  - b.  Copies of IDS Citations

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[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c) or (i))	-20* =		x \$ _____ =	\$
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	-3** =		x \$ _____ =	
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			+ \$ _____ =	
				BASIC FEE (37 CFR 1.16)	710
			Total of above Calculations =		710
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).				
	* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.			TOTAL =	

6.  Small entity status: Applicant claims small entity status. See 37 CFR 1.27.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 23-1703:

- Fees required under 37 CFR 1.16.
- Fees required under 37 CFR 1.17.
- Fees required under 37 CFR 1.18.

8.  A check in the amount of \$ 710 & 1,390 ~~is enclosed~~ are enclosed

9.  Payment by credit card. Form PTO-2038 is attached.

10.  Applicant requests suspension of action under 37 CFR 1.103(b) for a period of \_\_\_\_\_ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.

11.  New Attorney Docket Number, if desired \_\_\_\_\_  
[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]

12. a.  Receipt For Facsimile Transmitted CPA (PTO/SB/29A)  
b.  Return Receipt Postcard (Should be specifically itemized, See MPEP 503)

13.  Other: PTO/SB/17 - Fee Transmittal, and Petition for Extension of Time.

**NOTE:** The prior application's correspondence address will carry over to this CPA  
UNLESS a new correspondence address is provided below.

**14. NEW CORRESPONDENCE ADDRESS**

<input checked="" type="checkbox"/> Customer Number or Bar Code Label	<input type="text" value="007470"/> (Insert Customer No. or Attach bar code label here)	<input type="checkbox"/> New correspondence address below
Name		
Address		
City	State	Zip Code
Country	Telephone	Fax

212-819-8200      212-354-8113

**15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print or Type)	Richard J. Sterner
Signature	
Registration No. (Attorney/Agent)	35,372
Date	March 12, 2001



1103326-0283

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Löfroth, et al.  
Serial No. : 08/945,655 Examiner: E. Webman  
Filed : October 24, 1997 Group Art Unit: 1615  
For : PHARMACEUTICAL COMPOSITION FOR SUSTAINED  
RELEASE OF THE HMG-COA REDUCTASE INHIBITOR  
FLUVASTATIN

"EXPRESS MAIL" Label No. EK90796774US

Date of Deposit March 12, 2001

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231.

Iris Rivera  
(Type or print name of person mailing paper or fee)

Iris Rivera  
(Signature of person mailing paper or fee)

BOX CPA  
The Assistant Commissioner for Patents  
Washington, D.C. 20231

PRELIMINARY AMENDMENT AND RESPONSE

Sir:

Preliminary to examination on the merits, please amend application as follows:

In the claims:

Cancel claims 7, 8 and 13.

Substitute amended claims 1-6, 12 and 14 below for pending claims 1-6, 12 and 14, respectively.

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